



DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Admission to Practice and Roster of Registered Patent Attorneys and Agents Admitted to Practice Before the United States Patent and Trademark Office

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), in accordance with the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0012 (Admission to Practice and Roster of Registered Patent Attorneys and Agents Admitted to Practice Before the United States Patent and Trademark Office). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

DATES: To ensure consideration, comments regarding this information collection must be received on or before **[INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email:* InformationCollection@uspto.gov. Include “0651-0012 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.

- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Dahlia George, Office of Enrollment and Discipline, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–4097; or by email to Dahlia.George@uspto.gov with “0651–0012 comment” in the subject line. Additional information about this information collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by 35 U.S.C. § 2(b)(2)(D), which permits the United States Patent and Trademark Office (USPTO) to establish regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the USPTO. This statute also permits the USPTO to require information from applicants that shows that they are of good moral character and reputation and have the necessary qualifications to assist applicants with the patent process and to represent them before the USPTO.

This information collection addresses submissions required by the regulations at 37 CFR 1.21, 10.14, and 11.5-11.11, which set forth the requirements to apply for the examination for registration and to demonstrate eligibility to be a registered attorney or agent before the USPTO, including the fee requirements. The Office of Enrollment and Discipline (OED) collects this information to determine the qualifications of individuals entitled to represent applicants before the USPTO in the preparation and prosecution of applications for a patent. The OED also collects this information to administer and maintain the public roster of attorneys and agents registered to practice before the

USPTO, which is accessible through the USPTO website. The information in this information collection is used by the USPTO to review applications for the examination for registration and to determine whether an applicant may be added to, or an existing practitioner may remain on, the Register of Patent Attorneys and Agents.

II. Method of Collection

Items in this information collection may be submitted via online electronic submissions. Applicants may also submit the information in paper form by mail, fax, or hand delivery.

III. Data

OMB Control Number: 0651–0012.

Form Numbers:

- PTO-107A: (Data Sheet – Register of Patent Attorneys and Agents)
- PTO-107R: (Reinstatement to the Register)
- PTO-107S: (Registration Statement of Patent Attorneys and Agents)
- PTO-158: (Application for Registration to Practice Before the United States Patent and Trademark Office)
- PTO-158A: (Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident)
- PTO 158RA: (Reasonable Accommodation)
- PTO-158T: (Application for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney or Agent)
- PTO-1209: (Oath or Affirmation)

Type of Review: Revision of a currently approved information collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 21,251 per year.

Estimated Number of Responses: 30,727 per year.

Estimated Time per Response: The USPTO estimates that it takes the public approximately 5 minutes (0.08 hours) to 7 hours to complete this information, depending upon the application. This includes the time to gather the necessary information, prepare and maintain the documents, and submit the items to the USPTO.

Estimated Total Annual Respondent Burden Hours: 18,188 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: \$7,275,200.

Table 1: Total Hourly Reporting Burden for Individuals or Households Respondents

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year)	Estimated Time for Response (hours)	Estimated Annual Burden (hour/year)	Rate ¹ (\$/hour)	Estimated Annual Respondent Cost Burden
			(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)
1	Application for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam) PTO-158	2,474	2,474	0.50	1,237	\$400	\$494,800
1	Application for Registration to Practice Before the United States Patent and Trademark Office (former examiners; examination waived) PTO-158	34	34	0.50	17	\$400	\$6,800

¹ 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.

1	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) PTO-158A	6	6	0.50	3	\$400	\$1,200
1	Application for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney or Agent (examination waived) PTO-158T	11	11	0.50	6	\$400	\$2,400
2	Registration Examination to Become a Registered Practitioner	Same as line 1	1,616	7	11,312	\$400	\$4,524,800
3	Reasonable Accommodation PTO 158RA	Same as line 1	63	4	252	\$400	\$100,800
4	Data Sheet – Register of Patent Attorneys and Agents PTO-107A	Same as line 1	840	0.5	420	\$400	\$168,000
5	Registration Statement of Patent Attorneys and Agents PTO-107S	16,333	16,333	0.25	4,083	\$400	\$1,633,200
6	Oath or Affirmation PTO-1209	Same as line 1	840	0.08	67	\$400	\$26,800
7	Reinstatement to the Register PTO-107R	76	76	0.08	6	\$400	\$2,400
8	Change of Registration from Agent to Attorney PTO-158	252	252	0.50	126	\$400	\$50,400
9	Written Requests (Certificate of Good Standing, Disciplinary History)	2,057	3,578	0.08	286	\$400	\$114,400
10	Petition to the Director of the Office of Enrollment and Discipline under 37 CFR 11.2(c)	7	7	0.75	5	\$400	\$2,000
11	Petition to USPTO Director under 37 CFR 11.2(d)	1	1	0.75	1	\$400	\$400
	Total	21,251	26,131	- - -	17,821	- - -	\$7,128,400

The USPTO Office of Enrollment and Discipline General Requirements Bulletin² recommends that “an applicant should make and keep a copy of every document submitted to the Office in connection with an application for registration.” The USPTO estimates that it will take an applicant approximately 5 minutes (0.08 hours) to print and retain a copy of the submissions and that approximately 4,596 responses requiring record keeping (based on the response numbers from Table 1) will be made per year, for a total of 367 hours.

Table 2: Total Hourly Recordkeeping Burden for Individuals or Households Respondents

Item No.	Item	Estimated Annual Responses (year)	Estimated Time for Response (hours)	Estimated Annual Burden (hour/year)	Rate ³ (\$/hour)	Estimated Annual Respondent Cost Burden
		(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)
1	Application for Registration to Practice Before the United States Patent and Trademark Office	2,525	0.08	202	\$400	\$80,800
3	Reasonable Accommodation	63	0.08	5	\$400	\$2,000
4	Data Sheet – Register of Patent Attorneys and Agents	840	0.08	67	\$400	\$26,800
6	Oath or Affirmation	840	0.08	67	\$400	\$26,800
7	Reinstatement to the Register	76	0.08	6	\$400	\$2,400
8	Change of Registration from Agent to Attorney	252	0.08	20	\$400	\$8,000
	Totals	4,596	---	367	---	\$146,800

Estimated Total Annual (Non-hour) Respondent Cost Burden: \$875,706. There are no capital start-up or maintenance costs associated with this information collection. There are, however, non-hour costs due to filing fees, postage costs, and notary fees.

² General Requirements Bulletin for Admission to the Examination for Registration to Practice in Patent Cases before the United States Patent and Trademark Office;

https://www.uspto.gov/sites/default/files/documents/OED_GRB.pdf

³ 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.

There are filing fees associated with this information collection. The application fees for registration to practice before the USPTO vary depending on whether the applicant is a current applicant, a former examiner, a foreign resident, or seeking reinstatement to the Register. The fee for administration of the computerized examination to become a registered patent practitioner also varies depending on how the examination is administered. The total annual non-hour cost burden associated with filing fees is \$865,958.

Table 3: Filing Fees

Item No.	Item	Responses (year) (a)	Filing Fee (\$) (b)	Total Non-Hour Respondent Cost Burden (\$/hour) (a) x (b) = (c)
1	Non-Refundable Application Fee for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam)	2,474	\$110	\$272,140
1	Application Fee for Registration to Practice Before the United States Patent and Trademark Office, as applicable when used for registration fees only (former examiners; examination waived)	34	\$110	\$3,740
1	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived)	6	\$110	\$660
1	Application Fee for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney/Agent (examination waived)	11	\$110	\$1,210
1	Non-Refundable Application Fee for Enrollment and/or Reinstatement to Practice Before the United States Patent and Trademark Office under 37 CFR 1.21(a)(10) (those who must prove fitness to practice)	7	\$1,680	\$11,760
2	Registration examination fee for administration of computerized examination to become a registered patent practitioner administered by a commercial entity (computer exam)	1,616	\$173	\$279,568
2	For administered review of Registration Examination by a commercial entity. (computer exam)	300	\$205	\$61,500
2	Registration examination fee for administration of computerized examination to become a registered patent practitioner administered by the USPTO (USPTO-administered exam)	1	\$470	\$470
2	For USPTO-Administered Review of Registration Examination	1	\$470	\$470
4	On Registration to Practice Under 37 CFR §11.6			
	On Grant of Limited Recognition Under 37 CFR §11.9(b)	840	\$210	\$176,400
7	Reinstatement to the Register	76	\$210	\$15,960
8	On Change of Registration from Agent to Attorney	252	\$110	\$27,720

14	Certificate of Good Standing as an Attorney or Agent, Standard	275	\$40	\$11,000
10	Petition to the Director of the Office of Enrollment and Discipline under 37 CFR 11.2(c)	7	\$420	\$2,940
11	Review of Decision of the Director of Enrollment and Discipline Under 37 CFR §11.2(d)	1	\$420	\$420
	Totals	5,901	- - -	\$865,958

Postage costs are also associated with this information collection. The USPTO estimates that the average postage cost for a mailed submission, depending upon the item sent, will be \$0.55. The USPTO estimates that with 2,450 mailed submissions, the postage costs in this information collection will be \$1,348.

Additional costs are incurred for new Patent Bar members who are required to obtain and submit an Oath or Affirmation. These items usually require the services of a public notary. The cost of a notarized document is dependent upon local rules, but is estimated by USPTO to average \$10. The cost of 840 Oaths is estimated to be \$8,400.

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this information collection, in the form of filing fees, postage, and notary fees is \$875,706.

Respondent's Obligation: Required to obtain or retain benefits.

IV. Request for Comments

The USPTO is soliciting public comments to:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- (c) Enhance the quality, utility, and clarity of the information to be collected; and
- (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personal identifying information in a comment, be aware that the entire comment—including personal identifying information—may be made publicly available at any time. While you may ask in your comment to withhold personal identifying information from public view, USPTO cannot guarantee that it will be able to do so.

Kimberly Hardy,

Information Collections Officer,

Office of the Chief Administrative Officer,

United States Patent and Trademark Office.

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